

Regarding the rejection of independent claim 1 over Feesler, the Feesler reference does not teach or suggest a flexographic printing plate in which a printing substance is transferred to a printing substrate by a raised part contacting the printing substrate.

In Feesler, a ridge 40 of the pull band 34 does not transfer ink to the substrate, but instead merely grips the substrate to prevent its edges from curling (see, e.g., Feesler at column 2, lines 35-44; and column 4, lines 52-54).

Moreover, the pull bands 34 are only formed along the side edges of a printing plate 22 (see column 5, lines 8-17; and FIGS. 6-8), and thus the ridge 40 of the pull band 34 is not configured to transfer a printed substance to a printing substrate *as claimed*.

On page 2 of the Office Action of 08/03/2007, it was alleged that the limitation "the printing substance is transferred to the printing substrate by the raised part contacting the printing substrate" is "functional language" that does not patentably distinguish over the Feesler reference.

Further, in the "Response to Arguments" section on page 4 of the Office Action of 08/03/2007, it was alleged that the above limitation constitutes an intended use that does not result in a structural difference with Feesler.

However, even if the above limitation is considered "functional language" or an intended use, it must be given full patentable weight, as required in MPEP 2173.05(g), which states:

A functional limitation is an attempt to define something by what it does, rather than by what is (e.g., as evidenced by its specific structure or specific ingredients). There is nothing inherently wrong with defining some part of an invention in functional terms. Functional language does not, in and of itself, render a claim improper. *In re Swinehart*, 439 F.2d 210, 169 USPQ 226 (CCPA 1971).

A functional limitation must be evaluated and considered, just like any other limitation of the claim, for what it fairly conveys to a person of ordinary skill in the pertinent art in the context in which it is used. ...

In other words, even if the claim limitation "the printing substance is transferred to the printing substrate by the raised part contacting the printing substrate" is considered functional language or an intended use, because the Feesler reference does not teach or suggest this limitation, and further is not capable of carrying out the claim limitation (*see, e.g.*, above discussion regarding pull bands 34 being formed only along side edges of the printing plate 22, and only for gripping the substrate in Feesler), it does not anticipate or otherwise render obvious the Applicants' claimed invention. Therefore, independent claim 1 and dependent claims 2-6 are patentable over Feesler.

It is believed the application is in condition for immediate allowance, which action is earnestly solicited.

Respectfully submitted,

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